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OFFICE OF PETITIONS

In re Application of
Scott Davis
Application No. 10/691,715
Filed: October 22, 2003
Attorney Docket No. 004770.00862

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed April 26, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed August 31, 2010. A Notice of Abandonment was mailed on April 14, 2011.

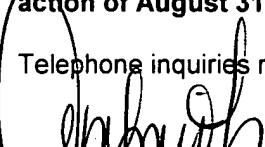
A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

The petition satisfies the above-stated requirements. Accordingly, the petition is GRANTED. In view of the above, the holding of abandonment is withdrawn.

This application is being referred to Technology Center Art Unit 2175 for re-mailing of the Office action of August 31, 2010. The period for reply will run from the mailing date of the Office action.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions